

**House Energy and Commerce Committee**  
**Subcommittee on Oversight and Investigations Hearing:**  
**“Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track Injury Insurance and Other Health and Welfare Issues”**  
**November 17, 2005**

**Testimony Submitted by Mr. John Giovanni**

Good afternoon Mr. Chairman and distinguished members of the Subcommittee. My name is John Giovanni, I am the former National Manager and Secretary of the Jockeys' Guild, Inc. And I would like to thank you for inviting me here again today to testify on these matters of great importance to the racing industry.

For over 40 years I have dealt with workers' compensation and race track accident insurance for jockeys and exercise riders. I have done so both as a jockey subject to the benefits of these varied programs, and also as the administrator of a national organization charged with negotiating and providing benefits for its members. I am experienced with these programs as they relate to the racing industry, not as an expert on workers' compensation. I was, however, substantially involved with the crafting of New York's workers' compensation for jockeys – a very successful solution to the problem – and so, I shall endeavor to render my opinion regarding both the programs presently in place and those being proposed.

Four states provide definitive workers' compensation plans to cover jockeys, and the other thirty-four racing states use a patchwork of insurance policies based upon an on-track accident program that was once traditionally negotiated between the Guild and the Thoroughbred Racing Associations (TRA). I am not referring to the \$1 million *supplemental* on-track insurance that the

Guild used to have, but rather the basic on-track insurance that the race tracks purchased. To the best of my knowledge, the last of these Guild/TRA contracts was signed in 1999 and expired in 2002. The failure to renew this contract left what had been at best an antiquated system in total disarray. I do not believe that presently there exists a database that can provide a list of tracks that are insured, companies with which they are insured, eligibility for coverage, or exactly what benefits are provided. This is truly a system in need of major repair and overhaul.

The four states which provide workers' compensation benefits for jockeys each approach the matter in a different manner. California's plan is the oldest and most traditional, in that trainers are considered to be the employers of jockeys and are responsible for providing workers' compensation benefits. The plan is extremely expensive, and my understanding is that in recent years it began receiving some form of state subsidy.

The Maryland plan was enacted by the state legislature in 1985, as a program originally designed to cover jockeys while riding races and exercising horses during training hours. The plan was capitalized by horse owners who made contributions to a special fund each time they started a horse in a race. Any owner from any state – even a part owner – must pay a flat fee to the program in order to race in the state. Through the intense lobbying efforts of the Maryland Horsemen's Benevolent and Protective Association the plan was later amended to exclude coverage for jockeys during training hours. Hence, jockeys are covered by horse owners through their fund while riding in races, but horse trainers are obliged to pay for individual plans to cover injuries to those same jockeys during training hours. In short, the plan is inexpensive for horse owners, expensive for horse trainers, and to my knowledge there is no mechanism in place to guarantee that every trainer provides the required coverage.

New Jersey has a workers' compensation program that combines features from the Maryland plan and traditional workers' compensation. Basically, both owners and trainers must contribute to a New Jersey fund – that is, the money in the fund comes out of purses – unless they can show employee coverage through another business or workers' compensation plan. The New Jersey plan left open for interpretation the eligibility of jockeys under certain other compensation plans that cover employees performing in a different capacity and that were accepted in lieu of contributions to the New Jersey Fund. I do not know if this problem has since been addressed and rectified.

The Commonwealth of Kentucky is considering a program of workers' compensation in the racing industry. From the news accounts I have read, from a jockey's perspective the proposal is seriously flawed. Traditionally, employers pay for the insurance and employees accept the benefits as the exclusive remedy for an occupational injury. The Kentucky proposal would have jockeys, horse owners, and track operators share the expense. Track operators would contribute a set amount (relatively close to what they now pay for an on-track accident policy), horse owners would contribute \$20.00 per starter, and jockeys would pay 10% of what they earn from a winning ride.

By assessing only the winning rider, the plan penalizes excellence and could lead to jockeys considering a move to other states where they are more fairly compensated for their work. As an example, the Kentucky Derby carries a 2,000,000.00 purse with 60% paid to the owner of the winning horse. Ten per cent of that sum is paid to the winning jockey. Under the proposed scheme the winning owner would pay \$20.00 to the insurance fund and the winning jockey would pay \$12,000.00. This huge disparity plays out through the entire purse structure. Equally unfair to the jockeys is being forced to pay a premium for their own coverage and then forfeiting the right to litigation over an injury that may

well be the responsibility of an owner, trainer, or track operator. There are several other problems inherent in this plan, and in my humble opinion it needs more study.

The New York plan was an effort during my tenure leading the Jockeys' Guild to provide workers' compensation coverage to all licensed jockeys, apprentice jockeys, and exercise riders in the state of New York. The object was to provide benefits at the lowest cost, close all the loopholes, and eliminate litigation. This was accomplished by legislation providing for a fund that, for insurance purposes, is the employer of all licensed jockeys, apprentice jockeys, and exercise riders. All licensed owners and trainers contribute to the fund and the Fund is deemed, for insurance purposes, the employer of all licensed jockeys, apprentice jockeys and exercise riders. Anyone who rides, no matter who they are actually employed by, is covered under this plan – even exercise riders who are freelance and considered independent contractors. In lieu of hundreds of individual policies, the fund purchases one policy at considerable savings, and by virtue of the occupations of those covered under the plan it isolates the greatest risk. Certainly, trainers and stable employees receive injuries – it's inherent in the business; but when an ambulance leaves the race track, far more often than not, the occupant is a rider.

The program in New York is called "The New York Jockey Injury Compensation Fund" and I am very proud of my work in initiating the plan. The ultimate goal was to see this plan become a flagship for the entire industry covering not just riders, but all backstretch employees. Several years after its adoption in New York, Dan Fick, who at the time was Executive Director of the American Quarter Horse Association, and I brought a proposed federal plan based on the New York model to Washington. However we couldn't generate enough interest to see it through to fruition.

It was and still is my belief that by amending the Longshoremen and Harbor Workers Act a national workers' compensation plan can be put in place to best serve the needs of the racing industry. I know it can be done at reasonable expense. Regional offices already exist around the country to handle claims, and the licensing databases of Racing Commissioners International and the North American Parimutuel Regulators Association would provide an excellent deterrent to fraud and abuse.

In closing, Mr. Chairman, I would respectfully recommend that this Subcommittee review the proposed national plan. It may be of assistance to this committee in finding a viable solution to the varied and woefully inadequate circumstances that exist today.

Thank you for your time and your patience. If you have any questions I will be happy to answer them.